

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 719 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

SITARAM RAVJIBHAI PATEL

Appearance:

MR SA PANDYA, APP for appellant

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 10/02/99

ORAL JUDGEMENT

Present appellant-State has preferred this Criminal Appeal against the judgment and order passed by the learned Metropolitan Magistrate, Court No.4, Ahmedabad in Criminal Case No.1520 of 1994 on 9-7-1998 acquitting the present respondent.

2. As per the say of prosecution, on 8-7-1993 at 6

p.m., the complainant was coming from his service in the evening. When she was parking his luna moped at the usual place, the bicycles parked there fell down and, therefore, landlord of the complainant Sitaram Patel came with a wooden stick and started abusing the complainant-Kokilaben and he has also asked her to vacate the premises occupied her. During this hot talk, he has given a blow with the said wooden stick on the head of complainant as a result of which, complainant was injured and blood was coming out. Thereafter, a complaint was filed before Kagdapith Police Station to that effect by the complainant which was registered as Kagdapith Police Station I.C.R.No.265 of 1998 for the offences punishable under secs.424 and 294 of IPC. Police has investigated the matter and submitted the charge-sheet against the accused-present respondent in the Court. Accused pleaded not guilty to the charge.

3. Prosecution has examined various witnesses including the injured complainant and the doctor, who has examined her and issued the certificate. At the end of trial, on appreciating the evidence and after considering the arguments of both the parties, learned Metropolitan Magistrate has acquitted the accused against which, the present appeal is preferred by the State.

4. I have heard learned Addl. Public Prosecutor, Mr.S.A.Pandya on behalf of State and also perused the judgment and order passed by the Court below. I have also gone through the evidence on record shown to me by Mr.Pandya. It is transpired from the record and proceedings and also from the judgment of the Court below that prosecution has failed to establish the offence beyond reasonable doubt against the accused. It is to be noted that the prosecution has failed to link the injury with the medical certificate issued by the doctor and the muddamal article. Mr.Pandya was not able to show any evidence which proves the guilt of the present respondent. I do not find any illegality in the judgment and order passed by the learned Metropolitan Magistrate and I am of the opinion that prosecution has failed in proving their case against the accused beyond reasonable doubt.

5. I am not discussing the evidence of each witness in detail in view of the observations made by the Hon'ble Apex Court in the case of STATE OF KARNATAKA VS. HEMAREDDY reported in AIR 1981 SC 1417 which reads as under:-

".... This court has observed in Girija

Nandini Devi V. Bigendra Nandini Chaudry
(1967) 1 SCR 93: (AIR 1976 SC 1124) that it
is not the duty of the appellate court when it
agrees with the view of the trial Court on the
evidence to repeat the narration of the
evidence or to reiterate the reasons given by
the trial Court expression of general
agreement with the reasons given by the Court
the decision of which is under appeal, will
ordinarily suffice."

6. Under the above circumstances, appeal is required
to be dismissed and is accordingly dismissed.

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